

REMARKS

All claims were rejected in the outstanding Office Action dated February 28, 2001. Claims 1-18, 21 and 22 are currently pending in this application (the Examiner omitted in error the pendency of claim 18 from the Office Action Summary).

The Rejections

The Examiner made provisional obvious-type double patenting rejections of claims 1 and 4 over copending Application No. 08/798,704 and claims 1 and 13-15 over copending Application No. 08/799,787. Claims 1-3 and 13-14 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,675,828 (Stoel). Claims 4-12, 21 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel in view of U.S. Patent No. 5,909,545 (Frese). Claims 15-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel. For at least the following reasons, Applicant respectfully traverses these rejections and requests their withdrawal.

Obvious Type Double Patenting Rejections

Applicant respectfully traverses the provisional obvious-type double patenting rejections of claims 1 and 4 over claim 1 of copending application 08/798,704. First, it is improper to pick a choose a few phrases from claims and then assert one is obvious over another. The claims must be considered as a whole when determining obviousness. Second, the claims of the '704 application were amended by an Amendment filed January 22, 2001 and these amendments were not considered by the Examiner in his provisional rejection. Third, the Applicant strongly disagrees with and hereby traverses the Examiner's unsupported assertion of obviousness with respect to a cluster administration computers, and requests the Examiner to cite a reference to support this assertion. MPEP 2144.03.

Applicant respectfully traverses the provisional obvious-type double patenting rejection of claim 1 and 13-15 over copending application number 08/799,787 for essentially the same reasons as set forth above. First, it is improper to pick a choose a few phrases from claims and then assert one is obvious over another. The claims must be considered as a whole when determining obviousness. Second, the claims of the '787 application were amended by an Amendment filed February 16, 2001 and these amendments were not considered by the Examiner in his obvious-type double patenting rejection. Third, the Applicant disagrees with and hereby traverses the Examiner's unsupported assertion of obviousness with respect to a cluster administration computers, and requests that the Examiner cite a reference to support this assertion. MPEP 2144.03.

For at least the forgoing reasons, the provisional obvious-type double patenting rejections should be withdrawn. If not withdrawn, Applicant will further respond to the provisional rejections after the claims are otherwise deemed to be allowable.

The Cited Art

Stoel discloses a hotel room entertainment system that enables video games to be played in each room of a hotel without providing a video game generator in each room. The entertainment system includes at a head end system portion in which the video game audio and video signals are generated and a plurality of guest terminals. Game interrogations are provided to each guest terminal in an active game-playing mode, each game interrogation having a plurality of response positions for guest terminal responses to the interrogation. The game interrogations are interleaved with a series of system interrogations generated at the head end system, enabling the entertainment system to provide video game signals along with other entertainment and services to the guest terminals using a single distribution system.

Frese teaches a system and method for remotely controlling an application program over a network. The system includes an application interception module and remote display module. The remote display module is transported across the network and executed on the user system in response to a user's request to provide on-demand remote control of an application program. The

application interception module captures an I/O stream generated by an application program, converts it to remote control protocol messages and transports them across a network to the remote display module executing in the user system. The remote display module converts the remote control protocol messages to system calls compatible with the operating system environment for the users computer. Likewise, the remote display module converts system calls to the local resource interface in the user's computer to remote control protocol messages which are transported across the network to the application interception module. The application interception module interface converts the remote control protocol messages to system calls for the application program. In this manner, output from the application program is provided to the user's computer and input actions at the user's computer are provided to the application program.

The Prior Art Distinguished

Applicant notes that both Stoel and Frese are 102(e) type prior art, and reserves the right to swear behind one or both of these references at a future date. However, this is not believed to be necessary at this time as the claimed invention is clearly patentably distinct from Stoel and Frese, both singly and in combination, for at least the reasons set forth below.

The primary reference used by the Examiner, i.e. Stoel, is directed to a video delivery system which is both not analogous to Applicant's invention and which clearly does not meet the limitations of Applicant's claims. With Stoel, a host computer 30 is the "brain" controlling an in-room hotel entertainment system 10. Included are banks of video cassette players 46 and game "engines" 58 which communicate with "guest terminals" 22 via the hotel's cable TV system 26. More particularly, the video cassette players and game engines are each provided with an RF modulator which provides video information on different "channels" that can be received by the guest terminals. The "guest terminals" include the hotel room TV set, a remote control 29, and a game controller 27. Information is derived from the game controller 27 by having the host computer 30 poll, one by one, the game controllers in each of the rooms. The game controller information can then be passed to the game controller 54.

It is therefore apparent that virtually every element of independent claims 1 and 13 is missing from the Stoel reference. For example, Stoel does not operate on a network as claimed by Applicant. The distribution system 26 comprises a coaxial cable network including amplifiers, splitters and taps (column 3, lines 52-54), i.e. a television cable system. Stoel does not provide network accessible computers as claimed by Applicant. If (as the Examiner suggests) the game engines 58 are to be considered network accessible computers, it should be noted that they do not include host computer programs which permit them to operate as network accessible computers as claimed by Applicant. Any host software is stored on the "host computer" 30 of Stoel, not the game engines 58. Further, the functionality of the game engines cannot be controlled remotely, that is, only a particular game loaded into the game engine by the host computer 30. *See*, for example, column 5, lines 21-26 of Stoel. Still further, there are no client computers in the Stoel system, which only includes I/O devices in the hotel rooms. That is, with the Stoel system each room is provided with a television set and a game controller 27 which is passively polled for keystrokes by the host computer 30. *See*, for example, column 11, lines 30-36. As such, there are no client computers into which an Applet ("client program") can be downloaded to allow the functionality of the network computer to be controlled.

Applicant submits that there is no motivation to combine Stoel with Frese in that Stoel does not include even the basic structure or functionality claimed by the Applicant, and is clearly non-analogous art with respect to Applicant's invention. Further, Frese alone does not teach or suggest Applicant's invention. Frese, in fact, teaches away from applicant's invention in that Frese teaches a technology limited to testing or evaluating specific application programs, as opposed to Applicant's claimed invention which permits a client computer to control the functionality of a host computer over a network system, as opposed to only a specific application program.

Independent claims 1 and 13 have been amended to further clarify the language of the claims and not to limit their scope for any purpose related to patentability. Applicant reserves

the right to reintroduce claims of the originally submitted scope in this application and applications continuing therefrom.

With respect to the rejections of claims 15-17, Applicant respectfully but forcefully traverses. The Examiner appears to be taking "Official Notice" that it would be obvious for a person of ordinary skill in the art to provide the loading and saving of client state as part of Applicant's claimed combination. This is clearly impermissible hindsight on the part of the Examiner. In order to sustain this rejection, the Examiner must cite a reference to support this assertion, and indicated the motivation to combine the references to meet Applicant's claimed invention. MPEP 2144.03

Applicant therefore believes that independent claims 1 and 13 and the claims dependent thereupon are clearly patentable over the cited art, and respectfully requests the withdrawal of the various rejections.

Conclusion

Applicant believes that all currently pending claims are patentable over the art of record, and respectfully requests the withdrawal of the rejections of the claims and a prompt Notice of Allowance. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
Oppenheimer Wolff & Donnelly, LLP



Paul Hickman
Reg. 28,516

P. O. Box 52037
Palo Alto, CA 94303-0746
650-320-4380

Marked Up Claims Showing Amendments

1. (Amended) A cluster computer system comprising:

a plurality of network accessible computers each having a unique address with respect to a network, each including a central processing unit and non-volatile memory, where each of said network accessible computers is coupled to [a] said network, where said network accessible computers implement host computer programs which permit the network accessible computers to operate as host computers for client computers coupled to said network, where a [said] client computer[s] controls[ling] the functionality of [said] a host computer[s] after being downloaded from said host computer a client program to run on said client computer that includes the ability to communicate with said host computer program, whereby an input device[s] of said client computer[s] can be used to generate inputs to said host computer[s], and such that image information generated by said host computer[s] can be viewed [by] in a window of said client computer[s]; and

a cluster administration computer coupled to said [plurality of] network [accessible computers] to monitor the operation of said network accessible computers.

13. (Amended) A method for providing access to host computers by client computers over a computer network comprising:

receiving a request for a host computer coupled to a computer network from a client computer coupled to said computer network, said request received by a cluster administration computer, wherein the relationship of said host computer to said client computer is to be such that after said client computer becomes associated with a host computer by being downloaded from said host computer a client program that includes the ability to communicate with a host computer program running on said host computer, an input device of said client computer can be used to generate inputs to said host computer, and such that image information generated by said host computer can be viewed by said client computer;

determining a suitable host computer for said client computer by said cluster administration computer;

informing said client computer of the network address of said suitable host computer by said cluster administration computer, whereby said client computer can become associated with said host computer; and

monitoring the functionality of a plurality of network accessible computers by said cluster administration computer.